

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAN ALBERT CREUSERE)	CIVIL ACTION NO. C-1-01 0021
)	
Plaintiff)	JUDGE BECKWITH
)	
v.)	MAGISTRATE JUDGE SHERMAN
)	
OHIO AND VICINITY REGIONAL)	
COUNCIL OF CARPENTERS)	
)	
Defendant)	

DEFENDANT OHIO AND VICINITY REGIONAL COUNCIL OF CARPENTERS'
MEMORANDUM IN OPPOSITION TO PLAINTIFF JAN ALBERT CREUSERE'S
MOTION TO EXTEND ALL COMPLETION DATES BY 150 DAYS

Plaintiff Jan Albert Creusere has requested that all completion dates in this case, including the discovery cut-off, be extended an additional 150 days. In making this request, Mr. Cresuere relies exclusively on his assertion that he has been waiting for almost five months to receive the scheduling order setting forth the various deadlines.

In fact, Magistrate Judge Novotny presided over a status conference on December 3, 2003 at which Mr. Creusere was present. As indicated in the Order entered December 4, 2003 (the "Order") (Document #24), **the various deadlines were discussed and**

the parties concurred with the schedule set forth in the Order, including a discovery cut-off of June 11, 2004. At the status conference, Magistrate Novotny also denied without prejudice

Mr. Creusere's Motion to Enlarge the Number of Depositions to Twenty.

Mr. Creusere claims that he never received a copy of the Order by certified mail and, therefore, is entitled to an additional 150 days of discovery and a similar delay in every other deadline in this case. Regardless of whether Mr. Creusere ever received a copy of the Order, by whatever means, the fact is that Mr. Creusere was on notice of the various deadlines on December 3, 2003. Mr. Creusere's alleged failure to receive a hard copy of the Order by certified mail setting forth the same dates established at the status conference does not change this fact.

It is apparently Mr. Creusere's contention that he was somehow prejudiced by his failure to receive a hard copy of the Order by certified mail because he could not proceed with discovery until he had that copy of the Order in hand. His contention in this regard is belied by the fact that Mr. Creusere engaged in discovery after the status conference. Specifically, on February 26, 2004, Mr. Creusere served his First Set of Interrogatories and Request for Production of Documents on the OVRCC, to which the ORVCC timely responded. Mr. Creusere has not engaged in any further discovery since that time. It is clear, however, that Mr. Creusere did not believe that he was precluded from engaging in discovery until such time as he received a hard copy of the Order by certified mail.

Mr. Creusere has failed to offer good cause why the discovery cut-off and other deadlines scheduled in this case should be further delayed. This case has been pending since January 16, 2001. Mr. Creusere had years to prepare for the start of the discovery process and

was provided almost six and one-half months in which to engage in discovery.¹ Despite these facts, and the undisputable fact that he was on put on notice on December 3, 2003 that the discovery cut-off was June 11, 2004, his discovery has been limited to one set of interrogatories and production requests in February 2004. Mr. Creusere has been provided full and ample opportunity to engage in discovery. There is no good reason for further delay and it is, therefore, requested that his motion be denied.

s/ Fred Seleman

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¹ It should be noted this is not the first occasion when Mr. Creusere has attempted to obtain a longer discovery period. At the status conference, Mr. Creusere attempted to convince Magistrate Novotny why he required more than approximately six and one-half months to engage in discovery. She was not convinced and set the schedule accordingly.

CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2004, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. In addition, a copy of the foregoing was sent by regular U.S. mail, postage prepaid, this 7th day of May 2004 to:

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Plaintiff

s/ Fred Seleman

One of the Attorneys for Defendant